

FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: December 7, 2017

Agenda Item: Petition to Repeal ARM 12.11.3110 Cromwell Channel No Wake Zone on Flathead Lake

Division: Enforcement

Action Needed: Final

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Background: Rick Stapleton submitted a petition requesting to repeal ARM 12.11.3110 which limits the Cromwell Channel no wake zone located on Flathead Lake. The petition states the repeal is necessary to address safety concerns caused by confusion and many boats congesting the channel. The petition also states that a 200 foot from shoreline no wake zone already exists under ARM 12.11.115 and is enforceable. Letters of support from property owners and boaters who use the channel were submitted with the petition.

Last fall, a petition was submitted by Wayne Hebert requesting an 800-foot-long no wake zone through the narrowest section of the Cromwell Channel. Letters of support were also included with that petition, including a letter of support from CSKT. The Commission initiated rulemaking, and after the public comment period, adopted the new rule, which went into effect on May 27, 2017.

Public Involvement Process & Results: The public has not had an opportunity to review or comment on the petition requesting to repeal ARM 12.11.3110. If approved by the Commission, rulemaking processes would be initiated that would include public involvement.

Alternatives and Analysis: The Commission is required to either deny the petition or initiate rulemaking. If the Commission denies the petition, the regulation of the water body listed in the petition will remain as it is currently. If the Commission initiates rulemaking, the process for rulemaking under the Montana Administrative Procedure Act (MAPA) will begin.

Agency Recommendation & Rationale: The Department recommends the Commission deny the petition to repeal the 800 foot no wake zone through the Cromwell channel. The Confederated Salish and Kootenai Tribes Lakeshore Protection Department is also still in support of the current No Wake restriction.

Proposed Motion: I move the Fish and Wildlife Commission deny the petition submitted by Rick Stapleton requesting to repeal ARM 12.11.3110 that limits the Cromwell Channel to a no wake zone at its narrowest section approximately 800 feet in length as marked by buoys.